BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

Claimant)
VS.) Docket No. 199,582
BOEING MILITARY AIRPLANES)
Respondent AND))
AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY Insurance Carrier	
AND	
KANSAS WORKERS COMPENSATION FUND))

ORDER

The application of the Kansas Workers Compensation Fund comes on for review before the Workers Compensation Appeals Board from an Order of Administrative Law Judge Nelsonna Potts Barnes dated August 23, 1995, wherein the Administrative Law Judge denied the Workers Compensation Fund's motion to be dismissed from these proceedings.

Issues

The Administrative Law Judge, in her Order, denied the Kansas Workers Compensation Fund motion to be dismissed from these proceedings. The Kansas Workers Compensation Fund appeals this denial requesting that the Appeals Board review that Order.

The Appeals Board must first address the issue regarding whether the Appeals Board has jurisdiction over this matter at this juncture of the proceedings.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record the Appeals Board finds that it does not have jurisdiction to review the issue raised at this time. Therefore, the Order of the Administrative Law Judge remains in full force and effect.

The decision rendered by the Administrative Law Judge denying the Workers Compensation Fund's motion to dismiss is an interlocutory order and subject to modification at the time of the final award. Had the Administrative Law Judge granted the Fund's motion, that order would have been considered final in nature and subject to review by the Appeals Board pursuant to K.S.A. 44-551 as amended by S.B. 59 (1995) as with any other final order or decision.

The Appeals Board finds, after examining both K.S.A. 44-551 as amended by S.B. 59 (1995) and K.S.A. 44-534a, that the subject Order is neither a final order which can be reviewed by the Appeals Board pursuant to K.S.A. 44-551, nor an issue delineated in K.S.A. 44-534a as appealable from a preliminary hearing. The Order before us pertains to an interlocutory matter regarding the liability of the Kansas Workers Compensation Fund over which the Administrative Law Judge has authority if called upon during these proceedings.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes remains in full force and effect.

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Dated this day of Se	eptember, 1995.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: Eric K. Kuhn, Wichita, Kansas J. Philip Davidson, Wichita, Kansas Nelsonna Potts Barnes, Administrative Law Judge Philip S. Harness, Director

IT IS SO ORDERED